



Rep. Norine Hammond

**Filed: 4/14/2015**

09900HB1796ham001

LRB099 06396 RLC 33847 a

1 AMENDMENT TO HOUSE BILL 1796

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1796 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Sections 5-705 and 5-710 as follows:

6 (705 ILCS 405/5-705)

7 Sec. 5-705. Sentencing hearing; evidence; continuance.

8 (1) At the sentencing hearing, the court shall determine  
9 whether it is in the best interests of the minor or the public  
10 that he or she be made a ward of the court, and, if he or she is  
11 to be made a ward of the court, the court shall determine the  
12 proper disposition best serving the interests of the minor and  
13 the public. All evidence helpful in determining these  
14 questions, including oral and written reports, may be admitted  
15 and may be relied upon to the extent of its probative value,  
16 even though not competent for the purposes of the trial. A

1 record of a prior continuance under supervision under Section  
2 5-615, whether successfully completed or not, is admissible at  
3 the sentencing hearing. No order of commitment to the  
4 Department of Juvenile Justice shall be entered against a minor  
5 before a written report of social investigation, which has been  
6 completed within the previous 60 days, is presented to and  
7 considered by the court.

8 (2) Once a party has been served in compliance with Section  
9 5-525, no further service or notice must be given to that party  
10 prior to proceeding to a sentencing hearing. Before imposing  
11 sentence the court shall advise the State's Attorney and the  
12 parties who are present or their counsel of the factual  
13 contents and the conclusions of the reports prepared for the  
14 use of the court and considered by it, and afford fair  
15 opportunity, if requested, to controvert them. Factual  
16 contents, conclusions, documents and sources disclosed by the  
17 court under this paragraph shall not be further disclosed  
18 without the express approval of the court.

19 (3) On its own motion or that of the State's Attorney, a  
20 parent, guardian, legal custodian, or counsel, the court may  
21 adjourn the hearing for a reasonable period to receive reports  
22 or other evidence and, in such event, shall make an appropriate  
23 order for detention of the minor or his or her release from  
24 detention subject to supervision by the court during the period  
25 of the continuance. In the event the court shall order  
26 detention hereunder, the period of the continuance shall not

1 exceed 30 court days. At the end of such time, the court shall  
2 release the minor from detention unless notice is served at  
3 least 3 days prior to the hearing on the continued date that  
4 the State will be seeking an extension of the period of  
5 detention, which notice shall state the reason for the request  
6 for the extension. The extension of detention may be for a  
7 maximum period of an additional 15 court days or a lesser  
8 number of days at the discretion of the court. However, at the  
9 expiration of the period of extension, the court shall release  
10 the minor from detention if a further continuance is granted.  
11 In scheduling investigations and hearings, the court shall give  
12 priority to proceedings in which a minor is in detention or has  
13 otherwise been removed from his or her home before a sentencing  
14 order has been made.

15 (4) When commitment to the Department of Juvenile Justice  
16 or placement in detention is ordered, the court shall state the  
17 basis for selecting the particular disposition, and the court  
18 shall prepare such a statement for inclusion in the record.

19 (Source: P.A. 94-696, eff. 6-1-06.)

20 (705 ILCS 405/5-710)

21 Sec. 5-710. Kinds of sentencing orders.

22 (1) The following kinds of sentencing orders may be made in  
23 respect of wards of the court:

24 (a) Except as provided in Sections 5-805, 5-810, 5-815,  
25 a minor who is found guilty under Section 5-620 may be:

1           (i) put on probation or conditional discharge and  
2 released to his or her parents, guardian or legal  
3 custodian, provided, however, that any such minor who  
4 is not committed to the Department of Juvenile Justice  
5 under this subsection and who is found to be a  
6 delinquent for an offense which is first degree murder,  
7 a Class X felony, or a forcible felony shall be placed  
8 on probation;

9           (ii) placed in accordance with Section 5-740, with  
10 or without also being put on probation or conditional  
11 discharge;

12           (iii) required to undergo a substance abuse  
13 assessment conducted by a licensed provider and  
14 participate in the indicated clinical level of care;

15           (iv) on and after the effective date of this  
16 amendatory Act of the 98th General Assembly and before  
17 January 1, 2017, placed in the guardianship of the  
18 Department of Children and Family Services, but only if  
19 the delinquent minor is under 16 years of age or,  
20 pursuant to Article II of this Act, a minor for whom an  
21 independent basis of abuse, neglect, or dependency  
22 exists. On and after January 1, 2017, placed in the  
23 guardianship of the Department of Children and Family  
24 Services, but only if the delinquent minor is under 15  
25 years of age or, pursuant to Article II of this Act, a  
26 minor for whom an independent basis of abuse, neglect,

1 or dependency exists. An independent basis exists when  
2 the allegations or adjudication of abuse, neglect, or  
3 dependency do not arise from the same facts, incident,  
4 or circumstances which give rise to a charge or  
5 adjudication of delinquency;

6 (v) placed in detention for a period not to exceed  
7 the lesser of 6 months or the period of incarceration  
8 permitted by law for adults found guilty of the same  
9 offense or offenses for which the minor was adjudicated  
10 delinquent ~~30 days~~, either as the exclusive order of  
11 disposition or, where appropriate, in conjunction with  
12 any other order of disposition issued under this  
13 paragraph, provided that any such detention shall be in  
14 a juvenile detention home and the minor so detained  
15 shall be 10 years of age or older. However, the  
16 detention ~~30 day~~ limitation may be extended by further  
17 order of the court for a minor under age 15 committed  
18 to the Department of Children and Family Services if  
19 the court finds that the minor is a danger to himself  
20 or others. The minor shall be given credit on the  
21 sentencing order of detention for time spent in  
22 detention under Sections 5-501, 5-601, 5-710, or 5-720  
23 of this Article as a result of the offense for which  
24 the sentencing order was imposed. The court may grant  
25 credit on a sentencing order of detention entered under  
26 a violation of probation or violation of conditional

1 discharge under Section 5-720 of this Article for time  
2 spent in detention before the filing of the petition  
3 alleging the violation. A minor shall not be deprived  
4 of credit for time spent in detention before the filing  
5 of a violation of probation or conditional discharge  
6 alleging the same or related act or acts. The  
7 limitation that the minor shall only be placed in a  
8 juvenile detention home does not apply as follows:

9 Persons 18 years of age and older who have a  
10 petition of delinquency filed against them may be  
11 confined in an adult detention facility. In making a  
12 determination whether to confine a person 18 years of  
13 age or older who has a petition of delinquency filed  
14 against the person, these factors, among other  
15 matters, shall be considered:

16 (A) the age of the person;

17 (B) any previous delinquent or criminal  
18 history of the person;

19 (C) any previous abuse or neglect history of  
20 the person;

21 (D) any mental health history of the person;

22 and

23 (E) any educational history of the person;

24 (vi) ordered partially or completely emancipated  
25 in accordance with the provisions of the Emancipation  
26 of Minors Act;

1           (vii) subject to having his or her driver's license  
2           or driving privileges suspended for such time as  
3           determined by the court but only until he or she  
4           attains 18 years of age;

5           (viii) put on probation or conditional discharge  
6           and placed in detention under Section 3-6039 of the  
7           Counties Code for a period not to exceed the period of  
8           incarceration permitted by law for adults found guilty  
9           of the same offense or offenses for which the minor was  
10          adjudicated delinquent, and in any event no longer than  
11          upon attainment of age 21; this subdivision (viii)  
12          notwithstanding any contrary provision of the law;

13          (ix) ordered to undergo a medical or other  
14          procedure to have a tattoo symbolizing allegiance to a  
15          street gang removed from his or her body; or

16          (x) placed in electronic home detention under Part  
17          7A of this Article.

18          (b) A minor found to be guilty may be committed to the  
19          Department of Juvenile Justice under Section 5-750 if the  
20          minor is 13 years of age or older, provided that the  
21          commitment to the Department of Juvenile Justice shall be  
22          made only if a term of incarceration is permitted by law  
23          for adults found guilty of the offense for which the minor  
24          was adjudicated delinquent. The time during which a minor  
25          is in custody before being released upon the request of a  
26          parent, guardian or legal custodian shall be considered as

1 time spent in detention.

2 (c) When a minor is found to be guilty for an offense  
3 which is a violation of the Illinois Controlled Substances  
4 Act, the Cannabis Control Act, or the Methamphetamine  
5 Control and Community Protection Act and made a ward of the  
6 court, the court may enter a disposition order requiring  
7 the minor to undergo assessment, counseling or treatment in  
8 a substance abuse program approved by the Department of  
9 Human Services.

10 (2) Any sentencing order other than commitment to the  
11 Department of Juvenile Justice may provide for protective  
12 supervision under Section 5-725 and may include an order of  
13 protection under Section 5-730.

14 (3) Unless the sentencing order expressly so provides, it  
15 does not operate to close proceedings on the pending petition,  
16 but is subject to modification until final closing and  
17 discharge of the proceedings under Section 5-750.

18 (4) In addition to any other sentence, the court may order  
19 any minor found to be delinquent to make restitution, in  
20 monetary or non-monetary form, under the terms and conditions  
21 of Section 5-5-6 of the Unified Code of Corrections, except  
22 that the "presentencing hearing" referred to in that Section  
23 shall be the sentencing hearing for purposes of this Section.  
24 The parent, guardian or legal custodian of the minor may be  
25 ordered by the court to pay some or all of the restitution on  
26 the minor's behalf, pursuant to the Parental Responsibility

1 Law. The State's Attorney is authorized to act on behalf of any  
2 victim in seeking restitution in proceedings under this  
3 Section, up to the maximum amount allowed in Section 5 of the  
4 Parental Responsibility Law.

5 (5) Any sentencing order where the minor is committed or  
6 placed in accordance with Section 5-740 shall provide for the  
7 parents or guardian of the estate of the minor to pay to the  
8 legal custodian or guardian of the person of the minor such  
9 sums as are determined by the custodian or guardian of the  
10 person of the minor as necessary for the minor's needs. The  
11 payments may not exceed the maximum amounts provided for by  
12 Section 9.1 of the Children and Family Services Act.

13 (6) Whenever the sentencing order requires the minor to  
14 attend school or participate in a program of training, the  
15 truant officer or designated school official shall regularly  
16 report to the court if the minor is a chronic or habitual  
17 truant under Section 26-2a of the School Code. Notwithstanding  
18 any other provision of this Act, in instances in which  
19 educational services are to be provided to a minor in a  
20 residential facility where the minor has been placed by the  
21 court, costs incurred in the provision of those educational  
22 services must be allocated based on the requirements of the  
23 School Code.

24 (7) In no event shall a guilty minor be committed to the  
25 Department of Juvenile Justice for a period of time in excess  
26 of that period for which an adult could be committed for the

1 same act.

2 (8) A minor found to be guilty for reasons that include a  
3 violation of Section 21-1.3 of the Criminal Code of 1961 or the  
4 Criminal Code of 2012 shall be ordered to perform community  
5 service for not less than 30 and not more than 120 hours, if  
6 community service is available in the jurisdiction. The  
7 community service shall include, but need not be limited to,  
8 the cleanup and repair of the damage that was caused by the  
9 violation or similar damage to property located in the  
10 municipality or county in which the violation occurred. The  
11 order may be in addition to any other order authorized by this  
12 Section.

13 (8.5) A minor found to be guilty for reasons that include a  
14 violation of Section 3.02 or Section 3.03 of the Humane Care  
15 for Animals Act or paragraph (d) of subsection (1) of Section  
16 21-1 of the Criminal Code of 1961 or paragraph (4) of  
17 subsection (a) of Section 21-1 of the Criminal Code of 2012  
18 shall be ordered to undergo medical or psychiatric treatment  
19 rendered by a psychiatrist or psychological treatment rendered  
20 by a clinical psychologist. The order may be in addition to any  
21 other order authorized by this Section.

22 (9) In addition to any other sentencing order, the court  
23 shall order any minor found to be guilty for an act which would  
24 constitute, predatory criminal sexual assault of a child,  
25 aggravated criminal sexual assault, criminal sexual assault,  
26 aggravated criminal sexual abuse, or criminal sexual abuse if

1 committed by an adult to undergo medical testing to determine  
2 whether the defendant has any sexually transmissible disease  
3 including a test for infection with human immunodeficiency  
4 virus (HIV) or any other identified causative agency of  
5 acquired immunodeficiency syndrome (AIDS). Any medical test  
6 shall be performed only by appropriately licensed medical  
7 practitioners and may include an analysis of any bodily fluids  
8 as well as an examination of the minor's person. Except as  
9 otherwise provided by law, the results of the test shall be  
10 kept strictly confidential by all medical personnel involved in  
11 the testing and must be personally delivered in a sealed  
12 envelope to the judge of the court in which the sentencing  
13 order was entered for the judge's inspection in camera. Acting  
14 in accordance with the best interests of the victim and the  
15 public, the judge shall have the discretion to determine to  
16 whom the results of the testing may be revealed. The court  
17 shall notify the minor of the results of the test for infection  
18 with the human immunodeficiency virus (HIV). The court shall  
19 also notify the victim if requested by the victim, and if the  
20 victim is under the age of 15 and if requested by the victim's  
21 parents or legal guardian, the court shall notify the victim's  
22 parents or the legal guardian, of the results of the test for  
23 infection with the human immunodeficiency virus (HIV). The  
24 court shall provide information on the availability of HIV  
25 testing and counseling at the Department of Public Health  
26 facilities to all parties to whom the results of the testing

1 are revealed. The court shall order that the cost of any test  
2 shall be paid by the county and may be taxed as costs against  
3 the minor.

4 (10) When a court finds a minor to be guilty the court  
5 shall, before entering a sentencing order under this Section,  
6 make a finding whether the offense committed either: (a) was  
7 related to or in furtherance of the criminal activities of an  
8 organized gang or was motivated by the minor's membership in or  
9 allegiance to an organized gang, or (b) involved a violation of  
10 subsection (a) of Section 12-7.1 of the Criminal Code of 1961  
11 or the Criminal Code of 2012, a violation of any Section of  
12 Article 24 of the Criminal Code of 1961 or the Criminal Code of  
13 2012, or a violation of any statute that involved the wrongful  
14 use of a firearm. If the court determines the question in the  
15 affirmative, and the court does not commit the minor to the  
16 Department of Juvenile Justice, the court shall order the minor  
17 to perform community service for not less than 30 hours nor  
18 more than 120 hours, provided that community service is  
19 available in the jurisdiction and is funded and approved by the  
20 county board of the county where the offense was committed. The  
21 community service shall include, but need not be limited to,  
22 the cleanup and repair of any damage caused by a violation of  
23 Section 21-1.3 of the Criminal Code of 1961 or the Criminal  
24 Code of 2012 and similar damage to property located in the  
25 municipality or county in which the violation occurred. When  
26 possible and reasonable, the community service shall be

1 performed in the minor's neighborhood. This order shall be in  
2 addition to any other order authorized by this Section except  
3 for an order to place the minor in the custody of the  
4 Department of Juvenile Justice. For the purposes of this  
5 Section, "organized gang" has the meaning ascribed to it in  
6 Section 10 of the Illinois Streetgang Terrorism Omnibus  
7 Prevention Act.

8 (11) If the court determines that the offense was committed  
9 in furtherance of the criminal activities of an organized gang,  
10 as provided in subsection (10), and that the offense involved  
11 the operation or use of a motor vehicle or the use of a  
12 driver's license or permit, the court shall notify the  
13 Secretary of State of that determination and of the period for  
14 which the minor shall be denied driving privileges. If, at the  
15 time of the determination, the minor does not hold a driver's  
16 license or permit, the court shall provide that the minor shall  
17 not be issued a driver's license or permit until his or her  
18 18th birthday. If the minor holds a driver's license or permit  
19 at the time of the determination, the court shall provide that  
20 the minor's driver's license or permit shall be revoked until  
21 his or her 21st birthday, or until a later date or occurrence  
22 determined by the court. If the minor holds a driver's license  
23 at the time of the determination, the court may direct the  
24 Secretary of State to issue the minor a judicial driving  
25 permit, also known as a JDP. The JDP shall be subject to the  
26 same terms as a JDP issued under Section 6-206.1 of the

1 Illinois Vehicle Code, except that the court may direct that  
2 the JDP be effective immediately.

3 (12) If a minor is found to be guilty of a violation of  
4 subsection (a-7) of Section 1 of the Prevention of Tobacco Use  
5 by Minors Act, the court may, in its discretion, and upon  
6 recommendation by the State's Attorney, order that minor and  
7 his or her parents or legal guardian to attend a smoker's  
8 education or youth diversion program as defined in that Act if  
9 that program is available in the jurisdiction where the  
10 offender resides. Attendance at a smoker's education or youth  
11 diversion program shall be time-credited against any community  
12 service time imposed for any first violation of subsection  
13 (a-7) of Section 1 of that Act. In addition to any other  
14 penalty that the court may impose for a violation of subsection  
15 (a-7) of Section 1 of that Act, the court, upon request by the  
16 State's Attorney, may in its discretion require the offender to  
17 remit a fee for his or her attendance at a smoker's education  
18 or youth diversion program.

19 For purposes of this Section, "smoker's education program"  
20 or "youth diversion program" includes, but is not limited to, a  
21 seminar designed to educate a person on the physical and  
22 psychological effects of smoking tobacco products and the  
23 health consequences of smoking tobacco products that can be  
24 conducted with a locality's youth diversion program.

25 In addition to any other penalty that the court may impose  
26 under this subsection (12):

1           (a) If a minor violates subsection (a-7) of Section 1  
2 of the Prevention of Tobacco Use by Minors Act, the court  
3 may impose a sentence of 15 hours of community service or a  
4 fine of \$25 for a first violation.

5           (b) A second violation by a minor of subsection (a-7)  
6 of Section 1 of that Act that occurs within 12 months after  
7 the first violation is punishable by a fine of \$50 and 25  
8 hours of community service.

9           (c) A third or subsequent violation by a minor of  
10 subsection (a-7) of Section 1 of that Act that occurs  
11 within 12 months after the first violation is punishable by  
12 a \$100 fine and 30 hours of community service.

13           (d) Any second or subsequent violation not within the  
14 12-month time period after the first violation is  
15 punishable as provided for a first violation.

16 (Source: P.A. 97-1150, eff. 1-25-13; 98-536, eff. 8-23-13;  
17 98-803, eff. 1-1-15.)".